PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION

OF THE CLAIMS PRACTICES OF THE

FARMERS INSURANCE EXCHANGE
NAIC # 21652 CDI # 0937-3

FIRE INSURANCE EXCHANGE
NAIC # 21660 CDI # 1267-4

MID-CENTURY INSURANCE COMPANY
NAIC # 21687 CDI# 1428-2

TRUCK INSURANCE EXCHANGE
NAIC # 21709 CDI# 1199-9

CIVIC PROPERTY AND CASUALTY COMPANY
NAIC # 10315 CDI# 4241-6

EXACT PROPERTY AND CASUALTY COMPANY
NAIC # 10318 CDI# 4240-8

NEIGHBORHOOD SPIRIT PROPERTY AND CASUALTY COMPANY
NAIC # 10317 CDI # 4242-4

AS OF AUGUST 31, 2004

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

MARKET CONDUCT DIVISION

FIELD CLAIMS BUREAU

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DEPARTMENT OF INSURANCE
Consumer Services and Market Conduct Branch
Field Claims Bureau, 11th Floor
300 South Spring Street
Los Angeles, CA 90013

July 13, 2005

The Honorable John Garamendi
Insurance Commissioner
State of California
45 Fremont Street
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

Farmers Insurance Exchange (FAIE)
NAIC # 21652
Fire Insurance Exchange (FIE)
NAIC # 21660
Mid-Century Insurance Company (MCIC)
NAIC # 21687
Truck Insurance Exchange (TIE)
NAIC # 21709
Civic Property and Casualty Company (CPAC)
NAIC # 10315
Exact Property and Casualty Company (EPAC)
NAIC # 10318
Neighborhood Spirit Property and Casualty Company (NSPAC)
NAIC # 10317

Hereinafter referred to as the Companies.

This report is made available for public inspection and is published on the California Department of Insurance web site (www.insurance.ca.gov) pursuant to California Insurance Code section 12938.

SCOPE OF THE EXAMINATION

The examination covered the claims handling practices of the aforementioned Companies during the period September 1, 2003 through August 31, 2004. The examination was made to discover, in general, if these and other operating procedures of the Companies conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), the California Vehicle Code (CVC) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. Any alleged violations of other relevant laws which may result from this examination will be included in a separate report which will remain confidential subject to the provisions of CIC Section 735.5.

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Companies for use in California including any documentation maintained by the Companies in support of positions or interpretations of fair claims settlement practices.

2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.

3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The examination was conducted primarily at the claims office of the Companies in Westlake Village, California, and the offices of the California Department of Insurance in Los Angeles, California.

The report is written in a "report by exception" format. The report does not present a comprehensive overview of the subject insurer's practices. The report contains only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer's proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

Any alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

CLAIM SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The examiners reviewed files drawn from the category of Closed Claims for the period September 1, 2003 through August 31, 2004, commonly referred to as the "review period". The examiners reviewed 558 Farmers Insurance Exchange (FAIE) claim files, 190 Fire Insurance Exchange (FIE) claim files, 167 Mid-Century Insurance Company (MCIC) claim files, 201 Truck Insurance Exchange(TIE) claim files, 4 Civic Property and Casualty Company (CPAC) claim files, 4 Exact Property and Casualty Company (EPAC) claim files, and 8 Neighborhood Spirit Property and Casualty Company (NSPAC) claim files. The examiners cited 211 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report. Further details with respect to the files reviewed and alleged violations are provided in the following tables and summaries.

Farmers Insurance Exchange (FAIE)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Personal Auto – Comprehensive	65,731	67	13
Personal Auto – Collision	91,723	67	9
Personal Auto – Property Damage	83,390	67	14
Personal Auto-Bodily Injury	58,620	68	10
Personal Auto-Uninsured Motorist Bodily Injury	17,802	68	32
Personal Auto – Uninsured Motorist Property Damage	1,822	66	25
Personal Auto – Medical Payment	27,296	68	19
Commercial Auto-Comprehensive	104	15	11
Commercial Auto- Collision	20	7	0
Commercial Auto –Property Damage	323	11	1
Commercial Auto- Bodily Injury	206	11	0
Commercial Auto- Uninsured Motorist Bodily Injury	4	2	2
Commercial Auto-Uninsured Motorist Property Damage	2	2	0

Farmers Insurance Exchange (FAIE)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Commercial Auto- Medical Payment	11	5	8
Workers Compensation	387	8	3
Homeowners-Protection Plus	0	0	0
Homeowners- Condominium	0	0	0
Homeowners – Special Form	1,211	3	0
Homeowners – Tenant	0	0	0
Commercial Multi-Peril/General Liability	5,641	23	0
TOTALS	354,293	558	147

Fire Insurance Exchange (FIE)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Homeowners-Protection Plus	22,979	67	4
Homeowners- Condominium	589	59	11
Homeowners – Special Form	20,829	64	7
Homeowners – Tenant	0	0	0
TOTALS	44,397	190	22

Mid-Century Insurance Company (MCIC)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Personal Auto – Comprehensive	151	1	0
Personal Auto – Collision	256	1	0
Personal Auto – Property Damage	496	1	0
Personal Auto-Bodily Injury	635	1	0
Personal Auto-Uninsured Motorist Bodily Injury	131	1	0
Personal Auto – Uninsured Motorist Property Damage	14	1	0
Personal Auto – Medical Payment	123	1	0
Commercial Auto-Comprehensive	195	22	6
Commercial Auto- Collision	55	19	2
Commercial Auto –Property Damage	664	23	0
Commercial Auto- Bodily Injury	385	21	3
Commercial Auto- Uninsured Motorist Bodily Injury	25	13	0
Commercial Auto-Uninsured Motorist Property Damage	1	1	0
Commercial Auto- Medical Payment	24	12	7
Workers Compensation	1,689	35	0
Homeowners-Protection Plus	57	1	0
Homeowners- Condominium	0	0	0
Homeowners – Special Form	71	1	0
Homeowners – Tenant	0	0	0
Commercial Multi-Peril/General Liability	2,775	12	0
TOTALS	7,747	167	18

Truck Insurance Exchange (TIE)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Commercial Auto-Comprehensive	236	26	0
Commercial Auto- Collision	51	18	7
Commercial Auto –Property Damage	926	34	6
Commercial Auto- Bodily Injury	563	32	1
Commercial Auto- Uninsured Motorist Bodily Injury	29	17	1
Commercial Auto-Uninsured Motorist Property Damage	4	4	3
Commercial Auto- Medical Payment	38	18	2
Workers Compensation	849	18	1
Commercial Multi-Peril/General Liability	7,014	34	3
TOTALS	9,710	201	24

Civic Property and Casualty Company (CPAC)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Commercial Auto –Property Damage	1	0	0
Commercial Auto- Bodily Injury	2	1	0
Homeowners-Protection Plus	0	0	0
Homeowners- Condominium	3	1	0
Homeowners – Special Form	123	1	0
Homeowners – Tenant	0	0	0
Commercial Multi-Peril/General Liability	24	1	0
TOTALS	153	4	0

Exact Property and Casualty Company (EPAC)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Homeowners-Protection Plus	0	0	0
Homeowners- Condominium	2	1	0
Homeowners – Special Form	121	1	0
Homeowners – Tenant	2	2	0
TOTALS	125	4	0

Neighborhood Spirit Property and Casualty Company (NSPAC)			
CATEGORY	**CLAIMS FOR REVIEW PERIOD**	**REVIEWED**	**CITATIONS**
Homeowners-Protection Plus	0	0	0
Homeowners- Condominium	0	0	0
Homeowners – Special Form	328	1	0
Homeowners – Tenant	7	6	0
Commercial Multi-Peril/General Liability	17	1	0
TOTALS	352	8	0

TABLE OF TOTAL CITATIONS								
Citation	**Description**	**FAIE**	**FIE**	**MCIC**	**TIE**	**CPAC**	**EPAC**	**NSPAC**
CIC§790.03 (h)(3)	The Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.	28	1	2	0	0	0	0
CCR §2695.7(h)	Upon acceptance of the claim the Companies failed to tender payment within 30 calendar days.	11	1	5	3	0	0	0
CCR §2695.5(b)	The Companies failed to respond to communications within 15 calendar days.	15	2	1	1	0	0	0
CCR §2695.3(b)(3)	The Companies failed to maintain hard copy claim files or maintain claim files that are accessible, legible and capable of duplication to hard copy for five years.	7	3	0	8	0	0	0
CCR §2695.7(b)(3)	The Companies failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	9	4	3	2	0	0	0
CCR §2695.8(b)(1)	The Companies failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile.	11	0	1	0	0	0	0
CCR §2695.8(b)(1)	The Companies failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.	11	0	0	1	0	0	0
CCR §2695.7(b)	The Companies failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	6	1	2	1	0	0	0
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every 30 calendar days.	10	0	0	0	0	0	0
CCR §2695.3(a)	The Companies' claim file failed to contain all documents, notes and work papers that pertain to the claim.	5	1	0	2	0	0	0
CIC§790.03 (h)(5)	The Companies failed to effectuate prompt, fair, and equitable settlement of claims.	7	0	0	1	0	0	0

TABLE OF TOTAL CITATIONS								
Citation	**Description**	**FAIE**	**FIE**	**MCIC**	**TIE**	**CPAC**	**EPAC**	**NSPAC**
CCR §2695.8(b)(1)(C)	The Company failed to document the determination of value. Any deductions from value, including deduction for salvage, must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount.	8	0	0	0	0	0	0
CCR §2695.8(f)	The Companies failed to supply the claimant with a copy of the estimate upon which the settlement is based.	4	0	2	1	0	0	0
CCR §2695.7(f)	The Companies failed to provide written notice of any statute of limitation or other time period requirement not less than 60 days prior to the expiration date.	4	2	0	0	0	0	0
CCR §2695.7(b)(1)	The Companies failed to provide written basis for the denial of the claim.	0	2	0	2	0	0	0
CCR §2695.8(k)	The Companies failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.	2	0	0	2	0	0	0
CCR §2695.5(e)(3)	The Companies failed to begin investigation of the claim within 15 calendar days.	2	0	1	0	0	0	0
CCR §2695.7(d)	The Companies persisted in seeking information not reasonably required for or material to the resolution of a claim dispute.	2	1	0	0	0	0	0
CCR §2695.5(e)(1)	The Companies failed to acknowledge notice of claim within 15 calendar days.	1	0	1	0	0	0	0
CCR §2695.7(g)	The Company attempted to settle a claim by making a settlement offer that was unreasonably low.	0	2	0	0	0	0	0

TABLE OF TOTAL CITATIONS								
Citation	**Description**	**FAIE**	**FIE**	**MCIC**	**TIE**	**CPAC**	**EPAC**	**NSPAC**
CCR §2695.4(a)	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	0	1	0	0	0	0	0
CCR §2695.5(e)(2)	The Company failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days.	1	0	0	0	0	0	0
CCR §2695.8(j)	The Company failed to share subrogation recoveries on a proportionate basis with the first party claimant.	1	0	0	0	0	0	0
CCR§ 2695.8 (k) (1) (2)	The Company failed to support adjustments attributable to the age and condition of the vehicle	1	0	0	0	0	0	0
CIC§790.03 (h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.	1	0	0	0	0	0	0
CIC§790.03 (h)(13)	The Company failed to provide promptly a reasonable explanation of the basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement.	0	1	0	0	0	0	0
Total Citations		147	22	18	24	0	0	0

SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. In response to each criticism, the Companies are required to identify remedial or corrective action that has been or will be taken to correct the deficiency. Regardless of the remedial actions taken or proposed by the Companies, it is the Companies' obligation to ensure that compliance is achieved. Money recovered within the scope of this report was $9,033.19. Following the findings of the examination, a closed claim survey conducted by the Companies on owner-retained salvage certificate fees resulted in additional payments of $13,467.69. As a result of the examination, the total amount of money returned to claimants within the scope of this report was $22,500.88.

1. <u>The Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims.</u> In 31 instances, the Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies. These instances occurred primarily in the personal auto categories. The Examiners identified delays in expediting claims settlement, failure to follow through with supervisory or management instructions and directions, as well as gaps in claim file activities. The Department alleges these acts are in violation of CIC §790.03 (h)(3).

<u>Summary of Companies' Response:</u> The Companies acknowledge these findings and attribute the majority of these acts to adjuster error. The Companies maintain procedures are in place to comply with the California Insurance Code. The Companies advised that performance issues with pertinent examiners will be addressed through progressive discipline. Supervisors will also run queries on all open files by conducting weekly activity reviews to ensure standards for prompt investigation and processing of claims are maintained.

2. <u>Upon acceptance of the claim the Companies failed to tender payment within 30 calendar days.</u> In 20 instances, upon acceptance of the claim the Companies failed to tender payment within 30 calendar days. Fifteen of these cases involved delays in medical payments while the other five were for automobile repair estimates and supplemental repairs. The Department alleges these acts are in violation of CCR §2695.7(h).

<u>Summary of Companies' Response:</u> The Companies acknowledge these findings and state that most of the errors occurred during a transition period when the Companies' entire California Medical Operation was transferred and centralized to their Salt Lake Medical Office in October 2003. Medical payment claims were centralized for specialized handling and processing. This phase resulted in operational unforeseen delays. The Companies informed the Department this particular operation is now running on normal efficiencies. The Companies addressed the other non-medical payment delays with their staff through continuing training and reminders of compliance requirements.

3. <u>The Companies failed to respond to communications within 15 calendar days.</u> In 19 instances, the Companies failed to respond to communications within 15 calendar days.

Twelve of these cases were inquiries or demand packages from the insured, and/or the insured's attorney. The other seven cases were communications from the claimant and/or the adverse carrier demanding payment or settlement of claims. The Department alleges these acts are in violation of CCR §2695.5(b).

Summary of Companies' Response: The Companies acknowledge these findings indicating some of the adjusters handling the claims are no longer with the company. The Companies further state that performance issues with pertinent examiners will be addressed through progressive discipline.

4. The Companies failed to maintain hard copy claim files. In 18 instances, the Companies failed to maintain hard copy files or claim files that are accessible, legible and capable of duplication to hard copy for five years. The Department alleges these acts are in violation of CCR §2695.3(b)(3).

Summary of Companies' Response: The Companies acknowledge they were unable to locate or find the pertinent hard copy files that were previously stored at an offsite storage facility. The Companies advise they have a new computerized system of "paperless files" for majority of their claims. This new system is expected to eliminate problems of claims retrieval and accessibility, in compliance with CCR §2695.3(b)(3).

5. The Companies failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance. In 18 instances, the Companies failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. In 12 of the cases, medical payment claims were fully or partially denied in writing without the appropriate referral language. Another four were homeowner claims and two were other auto claims. The Department alleges these acts are in violation of CCR §2695.7(b)(3).

Summary of Companies' Response: The Companies acknowledge these citations advising corrective action has already been undertaken. The Explanation of Benefits (EOB) form for medical payment claims, handled by their third party medical reviewer, was revised to include the required denial language. Furthermore, the Companies now include the denial language in their settlement cover letters, a sample of which has been provided to the Department. In the six other non-medical claims of non-compliance, the Companies have procedures in place to utilize form letters containing the required denial language. As a result of this examination, adjusters were reminded to utilize the appropriate forms.

6. The Companies failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. In 12 instances, the Companies failed to include in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. In eight cases, the salvage certificate fees on owner-retained salvage settlements were not paid. Three total loss claims were not paid the vehicle license fees and transfer fees, while one total

loss claim was not paid both the sales tax and the vehicle/transfer fees. The Department alleges these acts are in violation of CCR §2695.8(b)(1).

Summary of Companies' Response: The Companies acknowledge these errors and indicate it is their company procedure to pay all appropriate sales taxes, vehicle license fees and transfer fees on total loss claims. In these instances, the Companies have a computerized system which breaks down the total loss settlement sheet. The Companies centralized processing of the majority of total loss claims in their Oklahoma office. To ensure compliance, the Companies have updated their California procedures to more clearly indicate the salvage certificate fees owed on owner-retained salvage. Furthermore, effective immediately, total losses with owner-retained salvage will no longer be handled by their Oklahoma facility but will be settled on a per claim basis in their California field offices. The Companies have reinforced these procedures with claims personnel through office meetings, case reviews and one-on-one training. An internal memorandum dated February 17, 2005 was also sent to claims staff reiterating compliance with this regulation. The Companies believe this will allow for better expediency and monitoring of the overall total loss settlement process.

Additionally, as a result of this examination, the Companies conducted a closed claim survey of the prior 3-year period starting from February 1, 2003 to February 28, 2005. The Companies identified 6,555 total-losses for review, and issued payments on 2,300 claims totaling $13,467.69 for unpaid salvage certificate fees. The Companies has submitted a summary of the audit results to the Department.

7. The Companies failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. In 12 instances, the Companies failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. The insured was not provided with a breakdown of how the total settlement amount was computed. The Department alleges these acts are in violation of CCR §2695.8(b)(1).

Summary of Companies' Response: The Companies acknowledge that the adjusters failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile pursuant to their procedural requirements. As a result of this examination, the Companies sent the required total loss settlement letters to the 12 insureds with a copy of the market evaluation. Additionally, the Companies will address these findings in ongoing training with its claims personnel.

8. The Companies failed to accept or deny the claim within 40 calendar days.

In ten instances, the Companies failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. The Companies did not respond, or delayed the liability determination and decision-making on claims or demands from insureds, claimants, or their attorneys. The Department alleges these acts are in violation of CCR §2695.7(b).

Summary of Companies' Response: The Companies acknowledge these findings and indicate these are adjuster errors. The Companies state progressive discipline will be used to improve performance of its claims staff. Furthermore, Supervisors will review and audit files on a regular basis to ensure timely acceptance or denial upon receipt of proof of claim.

9. <u>The Companies failed to provide written notice of the need for additional time every 30 calendar days.</u> In ten instances, the Companies failed to provide written notice of the need for additional time every 30 calendar days. These errors involved personal auto claims in the uninsured motorist and medical payment lines of coverage wherein insureds were not apprised in writing of the current pending status of the claim. The Department alleges these acts are in violation of CCR §2695.7(c)(1).

<u>Summary of Companies' Response:</u> The Companies acknowledge these citations and will emphasize procedures with its staff to send timely status or extension letters to insureds and/or claimants when applicable. To improve efficiency, the Companies assigned one claims staff to handle follow-ups on delayed police reports, particularly on the uninsured motorist lines of coverage.

10. <u>The Companies failed to properly document claim files.</u> In eight instances, the Companies' files failed to contain all documents, notes and work papers. Specifically, the files failed to document the basis of claims handling actions or the files failed to contain pertinent documents. The Department alleges these acts are in violation of CCR §2695.3(a).

<u>Summary of Companies' Response:</u> The Companies acknowledge these errors and will follow-up training with its claims staff on file documentation to support claims processes and decision-making. The Companies will emphasize the importance of maintaining all file documentation and communications.

11. <u>The Companies failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.</u> In eight instances, the Companies failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear. In five instances, the claimants were not paid for towing and storage charges, had an unsupported reduction in the total loss settlement, and a non-payment of a carrier's subrogation claim. Two instances involved workers compensation claims with delays in total disability payment and various unpaid medical bills. The last case was a delayed uninsured motorist resolution and determination. The Department alleges these acts are in violation of CIC §790.03 (h)(5).

<u>Summary of Companies' Response:</u> The Companies acknowledge these errors. As a result of this examination, payments were issued to claimants resulting in monetary recoveries identified in this report. The Companies further indicated that training is on-going with its staff and that individual adjuster errors will be addressed as necessary through progressive discipline.

12. <u>The Companies failed to document the determination of value.</u> In eight instances, the Companies failed to document the determination of value. Any deductions from value, including deduction for salvage, must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount. In five cases, the insured was not provided with the market evaluation and documentation of how the total loss amount was determined. Two cases involved baseline adjustments on total loss vehicles which were made without sufficient information on the unsupported deductions. In the final one case, the salvage bid amount and

how it was determined was not on file. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(C).

Summary of Companies' Response: The Companies acknowledge these errors. In the claims identified in the examination, insureds were provided with appropriate market evaluations. Additionally, the Companies will address the examination findings with their staff through continuing training and reminders of compliance requirements.

An internal memorandum dated February 17, 2005 was also sent to claims staff reiterating compliance with this regulation. The Companies also advised the Examiners that baseline adjustment on its actual cash valuation or market surveys are no longer being applied by its vendor on total loss valuations.

13. The Companies failed to supply the claimant with a copy of the estimate upon which the settlement is based. In seven instances, the Companies failed to supply the claimant with a copy of the estimate upon which the settlement is based. The Department alleges these acts are in violation of CCR §2695.8(f).

Summary of Companies' Response: The Companies acknowledge these errors indicating adjuster oversight. The Companies will address this matter with its claims staff in their ongoing regular training sessions.

14. The Companies failed to provide written notice of any statute of limitation 60 days prior to the expiration date. In six instances, the Companies failed to provide written notice of any statute of limitation or other time period requirement not less than 60 days prior to the expiration date. The Department alleges these acts are in violation of CCR §2695.7(f).

Summary of Companies' Response: The Companies acknowledge these errors attributing them to adjuster oversight. The Companies will discuss performance issues with pertinent claims staff in one-on-one training.

15. The Companies failed to provide written basis for the denial of the claim. In four instances, the Companies failed to provide written basis for the denial of the claim. The Department alleges these acts are in violation of CCR §2695.7(b)(1).

Summary of Companies' Response: The Companies acknowledge these errors indicating performance issues with its claims personnel. The Companies will emphasize adherence to said regulation when they conduct additional training and update procedures with its staff.

16. The Companies failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing. In four instances, the Companies failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing. In three cases, explanation of betterment on tires was not provided. In the last case, determination of total loss

settlement and computation was not provided to the claimant. The Department alleges these acts are in violation of CCR §2695.8(k).

Summary of Companies' Response: The Companies acknowledge these errors and will continue to follow up on training and performance issues with claims staff to be in compliance with this regulation.

17. The Companies failed to begin investigation of the claim within 15 calendar days. In three instances, the Companies failed to begin investigation of the claim within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(3).

Summary of Companies' Response: The Companies acknowledge these errors and indicate that performance issues with its staff will be addressed. Supervisors will also run queries on all open files for timely contact, handling, and monitoring.

18. The Companies persisted in seeking unnecessary information. In three instances, the Companies persisted in seeking information not reasonably required for or material to the resolution of a claim dispute. Medical bills, records and forms may be contained in two separate claim units for handling by multiple adjusters. These resulted in duplicative requests for documentation already previously received. The Department alleges these acts are in violation of CCR §2695.7(d).

Summary of Companies' Response: The Companies acknowledge these findings indicating current procedures do not allow claims staff to look into the other claim unit's documentation, or share information without approval or release from the insured or claimant. This situation arises particularly in the handling of uninsured motorist bodily injury and medical payments which are handled by separate adjusters in separate units. As a result of this examination, the Companies will review its claims processes and procedures to ensure future compliance with CCR § 2695.7(d).

19. The Companies failed to acknowledge notice of claim within 15 calendar days. In two instances, the Companies failed to acknowledge notice of claim within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(1).

Summary of Companies' Response: The Companies acknowledge these findings and attribute them to adjuster error. Progressive discipline with its staff will be used to improve performance.

20. The Companies attempted to settle a claim by making a settlement offer that was unreasonably low. In two instances, the Companies attempted to settle a claim by making a settlement offer that was unreasonably low. The Companies misinterpreted the exclusion clause in its policy and failed to pay appropriately in one instance. In the other case, the Companies received receipt for replacement yet failed to issue payment accordingly. The Department alleges these acts are in violation of CCR §2695.7(g).

Summary of Companies' Response: The Companies acknowledge these errors and indicate adjuster oversight. As a result of the examination, payments were issued to claimants resulting in monetary recoveries identified in this report. The Companies will address adjuster performance issues as necessary through progressive discipline.

21. The Companies failed to comply with the Fair Claims Settlement Practices Regulations. In one instance each, (for a total of four instances), the Companies failed to comply with the following Fair Claims Settlement Regulations: (1) CCR § 2695.4(a) for failure to clearly explain or document explanation of pertinent benefits, coverage and time limits; (2) CCR § 2695.5(e)(2) for failure to provide necessary forms, instructions, and reasonable assistance within 15 days of receipt of claim; (3) CCR§ 2695.8(j) for failure to share appropriate subrogation recovery with the insured; and (4) CCR § 2695.8(k)(1)(2) for failure to support adjustments attributable to the age and condition of the vehicle. The Department alleges these acts are in violation of various fair claims practices regulations.

Summary of Companies' Response: The Companies acknowledge these errors and indicate they are isolated instances of non-compliance due to examiner oversight. The Companies will provide ongoing instructions and training to its staff to discuss these findings and reiterate compliance to the fair claims settlement practices regulations.

22. The Companies failed to comply with the California Insurance Code. In one instance each, (for a total of two instances), the Companies failed to comply with the California Insurance Code: (1) CIC§ 790.03(h)(1) for misrepresenting to claimants pertinent facts or insurance policy provisions relating to any coverage at issue; and (2) CIC§ 790.03(h)(13) for failure to provide a reasonable explanation of the basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or the offer of a compromise settlement. The Department alleges these acts are in violation of the law.

Summary of Companies' Response: The Companies acknowledge these errors and indicate they are isolated instances of non-compliance due to examiner oversight. The Companies will provide ongoing instructions and training to its staff to discuss these findings and reiterate compliance to the code.